

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STANLEY K. BUTTS,

Plaintiff,

v.

Case No. 06-CV-11326-DT

CITY OF DETROIT, et al,

Defendants.

**OPINION AND ORDER DISMISSING CLAIMS AGAINST
DEFENDANT CITY OF DETROIT FOR PLAINTIFF'S FAILURE
TO PROSECUTE THE CASE, DENYING AS MOOT DEFENDANT'S
"MOTION FOR PARTIAL SUMMARY JUDGMENT" AND CLOSING THE CASE**

On March 30, 2006, Plaintiff Stanley K. Butts filed the instant action, claiming federal subject matter jurisdiction under 28 U.S.C. § 1331. In his *pro se* Complaint, Plaintiff asserts claims of assault and battery, false arrest/imprisonment, constitutional violations, and gross negligence. On October 4, 2006 the court dismissed without prejudice all claims against the individual defendants because Plaintiff did not serve them properly under Federal Rule of Civil Procedure 4(c)(2). Defendant City of Detroit moved for partial summary judgment on December 8, 2006, asserting several immunity defenses. Plaintiff, in violation of Eastern District of Michigan Local Rule 7.1(d)(1)(b), did not file a response. Nor did Plaintiff contact the court formally or informally for an extension of time to file a response, as the court's scheduling order allows. (10/23/06 Order at 5-6.) The court has received no communication whatsoever from Plaintiff since late September 2006. Defendant's brief indicates that it sought, as required, concurrence from Plaintiff. Defendant claims that Plaintiff stated in a telephone conversation that he would stipulate to the dismissal of all intentional tort claims against

Defendant but that he subsequently failed to sign and return in a pre-paid envelope a proposed order to that effect. (Def.'s Br. at 8.) In light of these circumstances, it appears that Plaintiff has abandoned his claims.

The court will not reach the merits of Defendant's motion and will instead dismiss Plaintiff's case, pursuant to Local Rule 41.2, for want of prosecution. Accordingly,

IT IS ORDERED that the claims against Defendant City of Detroit are
DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Defendant's "Motion for Partial Summary Judgment" [Dkt # 18] is DENIED as moot.

IT IS FURTHER ORDER that, inasmuch as all defendants have now been dismissed, the clerk of the court is INSTRUCTED to close this case.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 26, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522